

Remarks

Claims 21 – 54 remain in the application and claims 22, 34, 41, 48-50, and 52-54 have been amended. This transmittal is presented in response to the seventh office action and is believed to completely resolve each issue as raised by the Examiner. Applicant believes the claims as amended to be non-obvious and patentably distinct from all prior art.

OA Item #1: Rejection of claims 22-24, 34-39, 40-45, and 47-51 under 35 USC § 112 first paragraph – Written description:

The examiner has rejected claims 22-24, 34-45, and 47-51 under 35 USC § 112 first paragraph. Applicant in part respectfully traverses the examiner's rejection based on the arguments provided below and in part applicant has amended applicant's claims in response to the examiner's rejection. Accordingly, applicant respectfully requests that the examiner withdraw the rejection.

Non-annular Funnel: The examiner contends that applicant's specification as originally filed failed to teach "a container having a non-annular funnel connected to an opening in a wall of the container wherein the funnel axis is defined as running substantially from the center of the opening in the wall to substantially the center of an opening in the funnel located within the container, and wherein a cross-sectional shape of the funnel in a position substantially normal to the funnel axis defines a cross-sectional shape having a first breadth dimension and a second breadth dimension and wherein the first breadth dimension is greater than the second breadth dimension". With respect to the non-annular cross-section shape, applicant respectfully reiterates applicant's explanation as provided in two of applicant's previous office action responses as follows: In order to maximize the spill resistivity of applicant's container, the anticipated potential gap between the intended work piece and sidewalls of applicant's funnel were minimized. In other words, applicant's funnel was sized and shaped for an egg (i.e. the intended work piece which has a generally elliptical shaped cross-section) to pass through applicant's funnel without excessive gaps or openings through which jostled or splashed liquid could spill. Accordingly, applicant's funnel forms the shape of an "extruded ellipse". Applicant notes that an ellipse, by definition, includes a first breadth dimension that is greater than a second breadth dimension. Furthermore, the well of applicant's container, forms a well having a

corresponding generally elliptical cross-sectional shape. This fact is rendered clear by reference for instance to drawing figure 2. In figure 2, an exploded isometric view of applicant's container, the container is shown as having a generally conical shape. Accordingly and in particular, the upper edge of lid 30 is shown as a circle (refer to the upper edge of lid 30 nearest the arrowhead of feature callout 30). Note that this circular edge is in distinct contrast to the elliptical upper edge of funnel opening 36. Were it not so and funnel 34 were circular in cross-sectional shape rather than elliptical in cross-sectional shape, then the distance between upper opening edge 36 and the upper outer corner of lid 30 would need to be constant regardless of the clocking or angular orientation of where a measurement is taken. But inasmuch as funnel 34 is elliptical in cross-sectional shape, the distance between funnel upper opening 36 and the upper outer edge of lid 30 is the least when measured at an angular orientation in line with tab 31 (because the major diameter of funnel 34 cross-section is in line with tab 31), and the distance between funnel upper opening 36 and the upper outer edge of lid 30 is the greatest when measured at an angular orientation 90 degrees from tab 31 (because the minor diameter of funnel 34 cross-section is 90 degrees from tab 31). It can also be seen in figure 2 (and figure 1) and confirmed in figures 3, 4, and 5, that the edge of funnel lower opening 38 defines an ellipse that is angularly in line with the elliptical edge of funnel upper opening 36, but is of smaller and offset major and minor diameters. Having thus pointed out that the funnel of applicant's container is elliptical in cross-sectional shape, applicant respectfully points out that "elliptical" satisfies the definition of "non-annular".

By way of clarification, applicant notes that the axis of applicant's funnel is merely a theoretical line that passes through the center of elliptical opening 36 and elliptical opening 38. Thus while the axis exists, it is not shown in the drawing figures. The purpose of including the definition of the axis was to define the orientation of a cross-sectional cut of funnel 34 so as to ensure that the resultant cross-sectional cut was elliptical. For instance, if funnel 34 were to have a cross-sectional cut taken vertically, then the resultant cross-section would not result in an ellipse, but rather it would result in the straight lines shown nearest the arrowhead of feature callout 34 in figures 3, 4, and 5. Thus applicant respectfully represents that applicant has established that applicant's original disclosure does in fact support "a container having a non-annular funnel connected to an opening in a wall of the

container wherein the funnel axis is defined as running substantially from the center of the opening in the wall to substantially the center of an opening in the funnel located within the container, and wherein a cross-sectional shape of the funnel in a position substantially normal to the funnel axis defines a cross-sectional shape having a first breadth dimension and a second breadth dimension and wherein the first breadth dimension is greater than the second breadth dimension”.

Claims Breadth: The examiner further contends that “the term “non-annular” is so broad that it reads on a variety of configurations other than one having an annular or circular cross-section and these configurations would include those that are not disclosed by the originally filed specification such as a funnel having a square-shaped cross-section”. Applicant agrees with the examiner’s contention. However, applicant respectfully suggests that the examiner has applied the wrong test and that the examiner’s argument is not supported in law. Applicant respectfully suggests that 35 USC § 112 does not require of an applicant to described every conceivable configuration that an applicant’s claim language may cover, rather 35 USC § 112 requires that an applicant described a configuration that supports applicant’s claim language. Applying this argument to applicant’s application, it is of no concern that applicant’s disclosure did not describe a funnel having rectangular cross-section (i.e. a configuration that “non-annular” reads on), as long as applicant’s application described at least one “non-annular” configuration (i.e. applicant’s funnel of elliptical cross-section) that supports the claim language. Furthermore, applicant respectfully points out that the functional geometric shape of the funnel of several patented containers has been held to be allowable subject matter. See for instance claim 1 of 5,246,046, claims 1 and 10 of 5,495,876, and claims 1 and 10 of RE36,131. More specifically, see claim 36 of recently allowed US reissued patent RE39,443 which specifically recites a “non-cylindrical/non-conical funnel”.

Breadth vs. Cord: The examiner further argues that “the recitation that a first breadth dimension is greater than the second breadth dimension does not limit the shape of the funnel to an ellipse since the first breadth dimension and the second breadth dimension as claimed are not required to pass through the funnel axis and can in fact read on a figure with a circular cross-section since a cord which defines a given breath dimension that does not pass through the funnel axis can have different lengths”. While applicant agrees with the examiner that “the recitation that a first breadth

dimension is greater than the second breadth dimension does not limit the shape of the funnel to an ellipse”, applicant respectfully disagrees with the examiner’s assertion that the noted configuration “can in fact read on a figure with a circular cross-section”. Applicant respectfully suggests that the examiner has confused the definition of a cord and the definition of the word “breadth”. Webster’s dictionary defines the word “cord” as “a line segment joining to points on a curve”, whereas Webster’s dictionary defines the word “breadth” as “the measure or dimension from side to side”. Thus a breadth dimension is the measurement of the full width of a geometric entity such as a circle or an ellipse, whereas only in the case of cord passing through the axis of a circle or an ellipse is a cord coincident with a breadth dimension. Accordingly, applicant respectfully points out that while applicant’s claims may perhaps not be limited to a funnel of an elliptical cross-section, applicant’s claims expressly exclude a funnel of a circular cross-section. Had applicant used the word “cord” in place of the word “breadth” as the examiner seems to suggest, the same argument would not apply.

Non-edible Utensil: The examiner argues that “the originally filed specification fails to teach or suggest a non-edible utensil”. Applicant notes that applicant disclosed and taught a “a wire egg dipper” utensil (see “SUMMARY OF THE INVENTION”, para 0004, line 6) which is clearly a non-edible utensil. Applicant represents that it is inherently incredible that one having ordinary skill in the art would confuse applicants wire egg dipper utensil as an edible utensil. Nevertheless, in response to the examiner’s urging, applicant has deleted the modifier “non-edible” from the description of the utensil in claims 22, 34, and 48.

Egg dipping device having a handle portion and an egg retention portion: The examiner argues that “the originally filed specification fails to teach or suggest a device for dipping eggs having a handle portion and an egg retention portion”. Although applicant believes that applicant’s wire egg dipper satisfies that noted claim language, in response to the examiner’s urging, applicant has deleted the “device for dipping eggs having a handle portion and an egg retention portion” from claims 22, 34, and 48.

Utensil having a handle portion and an open loop portion: The examiner argues that “the originally filed specification fails to teach or suggest a utensil having a handle portion and an open loop portion”. Although applicant believes that applicant’s wire egg dipper satisfies that noted claim

language, in response to the examiner's urging, applicant has deleted the "utensil having a handle portion and an open loop portion" from claims 22, 34, 41, 48, and 50.

Utensil having a handle portion and a non-handle portion: The examiner argues that "the originally filed specification fails to teach or suggest a utensil having a handle portion and a non-handle portion". Applicant respectfully traverses the examiner's assertion. Applicant points out that brush utensil 60 (see for instance drawing figure 3) clearly discloses a utensil having a handle portion (i.e. the depicted handle) and a non-handle portion (i.e. the depicted bristles). Applicant represents that it would be inconceivable that a person having ordinary skill in the art would not be able to distinguish applicant's disclosed utensil handle portion from applicant's disclosed utensil non-handle portion.

Unconnected objects: The examiner argues that "the originally filed specification fails to teach or suggest the edible article and the utensil are "unconnected" objects". Applicant respectfully traverses the examiner's assertion. Applicant points out that brush utensil 60 and egg work piece 50 were clearly depicted as two distinct, separate, and unconnected objects (see drawing figure 3).

OA Item #2: Rejection of claims 22-27, 34-39, 41, and 49 under 35 USC § 112 second paragraph – Indefiniteness:

The examiner has rejected claims 22-24, 34-45, and 47-51 under 35 USC § 112 first paragraph. In response to the examiner's rejection, applicant has amended applicant's claims as explained below to address the examiner's rejection. Accordingly, applicant respectfully requests that the examiner withdraw the rejection.

Discreet vs. Discrete: The examiner points out that claim 49 is rendered unclear because of the use of the word "discreet". Applicant avers that the spelling of the word "discreet" was a typographical error and should have been spelled as "discrete". In response to the examiner's identification of the misspelled word, applicant has amended claim 49 to have the subject word read "discrete".

Potion vs. Portion: The examiner points out that claims 22, 34, and 41 are rendered unclear because of the use of the word "potion". Applicant avers that the spelling of the word "potion" was a

typographical error and should have been spelled as “portion”. In response to the examiner’s identification of the misspelled word, applicant has amended claims 22, 34, 41, and 48 to have the subject word read “portion”.

OA Item #3: Rejection of claims 21-22, 24-28, 30-34, 36-45, and 47-51 under 35 USC § 103(a) –

Obviousness:

The Examiner has rejected claims 21-22, 24-28, 30-34, 36-45, and 47-51 under 35 USC § 103(a) as being unpatentable over the combination of Law ‘239 in view of Schramm ‘046, Hunter (GB) 1,428,356, Martindale ‘797, Price ‘678, and Japan 11-227388. Applicant respectfully traverses the Examiner’s rejection on the basis that Applicants’ invention in the appended modified claims is substantially different than the cited prior art patents. Applicant notes that while Schramm ‘046, Hunter (GB) 1,428,356, Martindale ‘797, Price ‘678, and Japan 11-227388 are directed toward spill resistant containers, Law ‘239 is directed towards a conventional egg crate type egg coloring container. While Law ‘239 does recognize spilling as a problem, Law ‘239 attempts to solve the spilling problem by providing an egg crate structure having multiple egg containing compartments that eliminate the need to move separate bowls to “create work room”. This in spite of art such as Hunter (GB) 1,428,356 and Price ‘678 being available to Law. Law’s solution is of course inadequate as it only minimally reduces spills and leaves the egg crate type container extremely susceptible to spilling when tipped. Law ‘239 does not provide for an egg container that includes a funnel or that prevents spillage regardless of the orientation of the container. Applicant respectfully suggests that there is no obvious motivation to combine the cited references. On the contrary, applicant’s current invention and the cited prior art are far removed. The invention of a container that provides ready access to a removable egg and yet provides for the resistance to spillage of liquid contents of the container when the container is oriented in any position is distinctly nonobvious. Applicant respectfully suggests that having a funnel member of a size and shape that will allow for the passage of an egg is counterintuitive. Applicant points to the previously cited allowance of US patent RE39,443 (SN 09/867,320) as substantiation of a container having a “non-cylindrical/non-conical funnel” as being patentable. It is the combination of applicant’s funnel, funnel geometry, container geometry, container

contents, and container spill resistance regardless of container orientation that combine to provide the claimed function and thus contribute to patentability of applicant's invention. Based on the novel and nonobvious nature of applicant's invention, applicant respectfully requests that the rejection be withdrawn.

Applicant respectfully points out that the examiner, in her rejection, has again repeated the phrase, "... absent the new matter ..." and yet the examiner has not cited a new matter rejection in her office action. The new matter rejection was raised in the examiner's July 26, 2005 fourth office action and applicant responded to the rejection and laid the issue to rest in applicant's September 19th, 2005 response to the July 26, 2005 fourth office action. Applicant further notes that the examiner, in the current office action, acknowledges that the applicant's originally filed specification does in fact teach a "non-annular" funnel and that the examiner's current contention is not a new matter contention but rather an issue of the differing breadth dimensions not excluding a circular cross-section (which of course the applicant maintains that they do exclude a circular cross-section). Accordingly, applicant assumes that the reference to new matter is merely an inadvertent carry-over of the examiner's previous office actions.

The examiner has stated that, "With respect to claim 25, 31, 37, and 43, Schramm, Japan '388 and Martindale each teach constructing the container from a plastic material. The method of forming the container from plastic in the form of a sheet is not germane to issue of the patentability of the device/container itself". Applicant respectfully traverses the examiner's rejection. Applicant notes that applicant did not claim the "method" of forming the container but rather the composition or construction of the container (i.e. what it is made of). Applicant represents that the container being constructed of plastic sheet formed a portion of applicant's disclosure and is considered by the applicant to be part of applicant's invention. Applicant does not dispute that other patents teach a container formed of plastic sheet. On the contrary, applicant readily acknowledges that for instance claims 8 and 28 of Schramm '138 read in part, "... wherein said container defines a container consisting of formed plastic sheet". Such recitation does not stand as a reference against patentability, but rather as a clear precedent that such claim language is indeed germane to patentability and that such claim language is indeed patentable. However, applicant further respectfully points out that the

claims in question, claims 25, 31, 37, and 43, are all dependent claims and that as such the claims must be examined in combination with all of the limitations found in the claims from which they depend.

The examiner has stated that, “With respect to claims 24, 30, 36, and 42, Schramm, Japan ‘388 and Martindale each show in their figures that the container is comprised of a first and a second member. Schramm, Japan ‘388 and Martindale each show the container having a first member which is detachably engagable to the second member which is obviously at least partially sealingly engagable with the second member in order to prevent leakage of the contents of the container”. Applicant does not dispute the noted teachings of the cited patents. However, applicant again respectfully points out that the claims in question, claims 24, 30, 36, and 42, are all dependent claims and that as such the claims must be examined in combination with all of the limitations found in the claims from which they depend. When consider in combination with the claims from which they depend, applicant suggests that the subject dependent claims are allowable.

The examiner has stated that, “With respect to claims 26, 32, 38, and 44, ... the wall of the container below the funnel and including the funnel of the Schramm, Japan ‘388 and Martindale container can serve as a flow channel”. Applicant respectfully traverses the examiner’s assertion. Applicant’s flow channel is far removed from the cited teachings. The American Heritage dictionary defines a channel as, “trench, furrow, or groove”. Clearly the flow channel (i.e. a trench, furrow, or groove) taught in applicant’s application is not found or taught in the cited prior art. Furthermore, applicant has claimed the funnel distinct from a wall and applicant has limited the flow channel to being formed within a wall. In contrast, the examiner is suggesting that “the wall of the container below the funnel and including the funnel of the Schramm, Japan ‘388 and Martindale container can serve as a flow channel”. If the entire wall (and even funnel) is to be considered the flow channel, then the so-called flow channel of the cited art cannot be formed within a wall. Thus applicant suggests that applicant’s flow channel defines over the all cited art.

OA Item #4: Rejection of claims 23, 29, and 35 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claims 23, 29, and 35 under 35 USC § 103(a) as being unpatentable over the combination of Law ‘239 in view of Schramm ‘046, Hunter (GB) 1,428,356, Price ‘678,

Martindale '797, and Japan 11-227388 in further view of Lintvedt '294. Inasmuch as claims 23, 29, and 35 depend from independent claims that are believed to be novel and nonobvious, and inasmuch as claims 23, 29, and 35 inherently include all the limitations of the independent claims from which they depend, applicant respectfully requests that the rejection be withdrawn.

OA Item #5: Rejection of claims 47 and 48 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claims 47 and 48 under 35 USC § 103(a) as being unpatentable over the combination of Law '239 in view of Schramm '046, Hunter (GB) 1,428,356, Price '678, Martindale '797, and Japan 11-227388 and if necessary, McShane '687. Applicant respectfully traverses the examiner's rejection. As detailed earlier in this office action response, a container having a "non-cylindrical/non-conical funnel" (i.e. a non-annular funnel) has been held to be allowable by virtue of several patents including US RE39,443 (see included references). Applicant notes that it is the non-annular shape of the funnel, and not the overall shape of the container (such as McShane) that applicant is claiming. Accordingly, applicant respectfully requests that the rejection be withdrawn.

OA Item #6: Rejection of claims 34, 36, 38, 39 and 47-49 under 35 USC § 102(b) – Anticipation:

The Examiner has rejected claims 34, 36, 38, 39 and 47-49 under 35 USC § 102(b) as being anticipated by Price 3,840,678. Applicant respectfully traverses the examiner's rejection based on the reasons provided below. Further, applicant notes that the examiner states that "Price teaches a kit comprising ... an edible article or edible commodity/object, ... and a non-edible utensil or spoon 32 removably contained within the container wherein the article and the non-edible utensil are unconnected as shown in Figure 2 such that the recited utensil can manipulate the article". Applicant respectfully points out that neither figure 2 or any other figure of Price shows an edible article and a non-edible (or edible) utensil. The spoon 32 which includes an edible handle is a single (not unconnected) utensil. Further, absent the utensil itself, Price does not teach an edible article. Thus in Price there is no "edible article and a non-edible (or edible) utensil". Applicant also refers the examiner to applicant's comments with respect to the flow channel and separate container portions. Accordingly, based on the teaching of Price noted by the applicant, and based on the reasons provided

below, applicant respectfully suggests that applicant's claimed invention is not anticipated by Price and applicant respectfully requests that the examiner's rejection be withdrawn.

With respect to claim 34, applicant noted in his immediately previous office action response, that applicant amended claim 34 to add the additional limitation of "non-fluid edible matter removably contained within said container". Applicant respectfully points out that the examiner has repeated her rejection without addressing the new limitations that applicant previously added. Accordingly, applicant believes claim 34 and all claims depending therefrom define over and are not anticipated by Price '678.

With respect to claim 47, applicant respectfully traverses the examiners argument that Price '678 anticipates claim 47. Claim 47 includes the limitation "non-annular funnel". It is the "non-annular funnel" that provides for a greater container volumetric utilization. Price '678 teaches and claims a conical funnel (see col 2, line 2 and fig 2). A conical funnel, being a subset of an annular funnel, thus does not teach, disclose, or anticipate applicant's "non-annular" funnel.

With respect to claim 49, applicant noted in his immediately previous office action response, that applicant amended claim 49 to add the additional limitation of "wherein said edible article and said non-edible utensil define two discreet unconnected objects such that said non-edible utensil is operable to manipulate said edible article". Applicant respectfully points out that Price '678 merely discloses a singular utensil that is inserted and withdrawn from a container, whereas applicants' invention discloses a non-edible utensil that is separate from and used in combination with an edible article. Accordingly, applicant believes claim 49 as defines over and is not anticipated by Price '678. Inasmuch as claims 34 and 49 have been amended to define over Price '678 and inasmuch as claim 47 is not anticipated by Price '678, applicant respectfully requests that the rejection be withdrawn.

OA Item #7: Rejection of claim 35 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claim 35 under 35 USC § 103(a) as being unpatentable over Price '678 in view of Lintvedt '294. Inasmuch as claim 35 depends from independent claim 34 which applicant believes to be novel and nonobvious, and inasmuch as claim 35 inherently includes all the

limitations of independent claim 34 from which claim 35 depends, applicant respectfully requests that the rejection be withdrawn.

OA Item #8: Rejection of claim 35 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claim 35 under 35 USC § 103(a) as being unpatentable over Price '678 in view of Schramm '046. Inasmuch as claim 35 depends from independent claim 34 which applicant believes to be novel and nonobvious, and inasmuch as claim 35 inherently includes all the limitations of independent claim 34 from which claim 35 depends, applicant respectfully requests that the rejection be withdrawn. Further applicant directs the examiner's attention to applicant's previous arguments (in this office action response) with respect to applicant's container being constructed of (i.e. not a method claim) formed sheet (see also claims 8 and 28 of US patent 6,386,138).

OA Item #9: Rejection of claims 40-42 and 44-45 under 35 USC § 102(b) – Anticipation:

The Examiner has rejected claims 40-42 and 44-45 under 35 USC § 102(b) as being anticipated by McCombs 1,254,714. Applicant respectfully traverses the examiner's rejection. Applicant acknowledges the definition of "colorant" as provided by the examiner from the American Heritage dictionary. However, as applicant noted in applicant's previous office action response, applicant previously amended the claim 40 to delete the limitation of "a discrete unit of liquid dye concentrate". Thus, inasmuch as McCombs' container of paint does not teach a colorant tablet, a discrete article of colorant or a colorant pill defining a colorant powder concentrate enclosed within a liquid soluble container, McCombs does not teach applicant's colorant, and thus does not teach all of the elements of claim 40 and therefore does not anticipate claim 40. Applicant further respectfully suggests that in addition to claim 40, all of the claims depending from claim 40, which inherently include all of the limitations of claim 40, define over and are not anticipated by McCombs. Accordingly, applicant respectfully requests that the rejection be withdrawn. Further applicant directs the examiner's attention to applicant's previous arguments (in this office action response) with respect to applicant's flow channel's and applicant's container portions.

OA Item #10: Rejection of claim 43 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claim 43 under 35 USC § 103(a) as being unpatentable over McCombs '714 in view of Schramm '046. Inasmuch as claim 43 depends from independent claim 40 which applicant believes to be novel and nonobvious, and inasmuch as claim 43 inherently includes all the limitations of independent claim 40 from which claim 43 depends, applicant respectfully requests that the rejection be withdrawn. Further applicant directs the examiner's attention to applicant's previous arguments (in this office action response) with respect to applicant's container being constructed of (i.e. not a method claim) formed sheet (see also claims 8 and 28 of US patent 6,386,138).

OA Item #11: Rejection of claims 40 and 43-45 under 35 USC § 102(e) – Anticipation:

The Examiner has rejected claims 40 and 43-45 under 35 USC § 102(e) as being anticipated by Martindale 5,758,797 and argues that Martindale '797 teaches every element of the claimed kit as set forth in claim 40 including a colorant defining a discrete/distinct article. The examiner argues that the predetermined quantity of colorant powder arranged in the container of Martindale defines "a discrete article of colorant". Applicant respectfully traverses the examiner's rejection. Applicant points out that Webster's dictionary defines the word "article" as, "An individual thing or element of a class; a particular object or item". For further reference, Webster's dictionary further defines the words "thing" as "An individual object", "Object" as "A material thing" and "A thing that forms an element", and "Item" as "A single article or unit in a collection". Thus the powder of Martindale, which comprises a plurality of colorant powder members or small items/grains/ does not teach or anticipate applicant's singular discrete "article". Accordingly, applicant respectfully requests that the rejection be withdrawn.

Applicant further respectfully suggests that in addition to claim 40, all of the claims depending from claim 40, which inherently include all of the limitations of claim 40, define over and are not anticipated by Martindale. Further applicant directs the examiner's attention to applicant's previous arguments (in this office action response) with respect to applicant's flow channel's and with respect

to applicant's container being constructed of (i.e. not a method claim) formed sheet (see also claims 8 and 28 of US patent 6,386,138).

OA Item #12: Rejection of claim 42 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claim 42 under 35 USC § 103(a) as being unpatentable over Martindale '797. Inasmuch as claim 42 depends from independent claim 40 which applicant believes to be novel and nonobvious, and inasmuch as claim 42 inherently includes all the limitations of independent claim 40 from which claim 42 depends, applicant respectfully requests that the rejection be withdrawn.

OA Item #13: Rejection of claim 41 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claim 41 under 35 USC § 103(a) as being unpatentable over Martindale '797 in view of Lintvedt '294. Inasmuch as claim 41 depends from independent claim 40 which applicant believes to be novel and nonobvious, and inasmuch as claim 41 inherently includes all the limitations of independent claim 40 from which claim 41 depends, applicant respectfully requests that the rejection be withdrawn.

OA Item #14: Rejection of claims 52-54 under 35 USC § 103(a) – Obviousness:

The Examiner has rejected claims 52-54 under 35 USC § 103(a) as being unpatentable over Price '678 in view of Meth '599. In response to the examiner's rejection, applicant has amended claims 52-54 to include at least one unique and nonobvious limitation that defines applicant's utensil and applicant's colorable work piece (in the case of claim 52) or applicant's article (in the case of claims 53 and 54) to define discrete unconnected items. Applicant notes that this limitation is similar to a limitation found in claim 49 and is addressed in applicant's comments in item #1 of this office action response under the heading "**Unconnected objects**". Inasmuch as applicant's amended claims are believed to be novel and nonobvious and to define over Price '678 and Meth '599 whether alone or in combination, applicant respectfully request's that the examiner's rejection be withdrawn.

OA Item #15: Terminal Disclaimer:

The Examiner has stated that applicant's terminal disclaimer filed August 12, 2006 is not proper due to the terminal disclaimer having lined through text and referring to an incorrect application serial number. The examiner further states that applicant's earlier filed terminal disclaimers (filed January 24, 2005 and September 19, 2005 respectively), remain in effect due to applicant's failing to have filed a petition under 37 CFR § 1.132. Applicant acknowledges the status provided by the examiner. Accordingly applicant withdraws his request for the terminal disclaimers filed January 24, 2005 and September 19, 2005 to be declared void and applicant withdraws his terminal disclaimer filed August 12, 2006.

Conclusion:

Applicant notes that any amendments made by this paper which are not specifically discussed herein are made solely for the purpose of more clearly and particularly pointing out and claiming Applicant's invention.

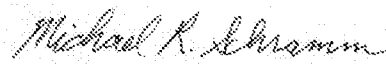
Applicant specifically reserves the right to prosecute claims of broader and differing scope than those presented herein in a continuation application.

Applicant submits that the amendments and the arguments presented herein have placed the claims in condition for allowance. Action in accordance therewith is earnestly solicited.

If the Examiner has any questions or comments which may be resolved over the telephone, she is requested to call Michael R. Schramm at 801-625-9268 or at 801-710-7793.

DATE: March 3, 2007

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael R. Schramm". The signature is written in dark ink and is positioned above a horizontal line.

Michael R. Schramm

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